

Executive Summary – Enforcement Matter – Case No. 50409

City of Lubbock

RN101609949

Docket No. 2015-0599-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Southeast Water Reclamation Plant, located at 3603 Guava Avenue at the eastern terminus of East 38th Street, south of the Fort Worth and Denver Railroad bridge crossing of the North Fork Double Mountain Fork Brazos River, approximately one mile northwest of the intersection of State Highway-Loop 289 and Farm-to-Market Road 835 (Buffalo Spring Lake Road) in the southeastern portion of Lubbock, Lubbock County

Type of Operation:

Water reclamation plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 2, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$38,587

Amount Deferred for Expedited Settlement: \$7,717

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$30,870

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc. (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 50409
City of Lubbock
RN101609949
Docket No. 2015-0599-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: April 1, 2015
Date(s) of NOE(s): April 10, 2015

Violation Information

Failed to comply with permitted effluent limitations for total suspended solids, *Escherichia coli*, and 5-day biochemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010353002, Effluent Limitations and Monitoring Requirements No. 1 for Outfall Nos. 001, 002, and 003].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

In 2007, the Respondent adopted a strategic water supply plan that has four phases, which includes upgrades to the Facility in order to produce stream quality effluent for possible reuse. Phases I, II, and Part 1 of Phase III are complete. Part 2 of Phase III has been initiated and consists of the rehabilitation of the solids handling building. Phase IV involves improvements to the Facility's activated sludge basins and is in the Respondent's future capital project plan.

Technical Requirements:

- a. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
- b. The Order will also require the Respondent to, within 365 days, submit written certification of compliance with the effluent limitations of TPDES Permit No. WQ0010353002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 50409

City of Lubbock

RN101609949

Docket No. 2015-0599-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Austin Henck, Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-6155; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

Respondent: James Loomis, City Manager, City of Lubbock, P.O. Box 2000, Lubbock,
Texas 79457

The Honorable Glen Robertson, Mayor, City of Lubbock, P.O. Box 2000, Lubbock,
Texas 79457

Respondent's Attorney: Brad Castleberry, Lloyd Gosselink Attorneys at Law, 816
Congress Avenue, Suite 1900, Austin, Texas 78701

Attachment A
Docket Number: 2015-0599-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Lubbock
Penalty Amount:	Thirty Thousand Eight Hundred Seventy Dollars (\$30,870)
SEP Offset Amount:	Thirty Thousand Eight Hundred Seventy Dollars (\$30,870)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Cleanup of Unauthorized Trash Dumpsites</i>
Location of SEP:	Lubbock County - Brazos River Basin, Ogallala Aquifer

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Cleanup of Unauthorized Trash Dumpsites*. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities ("Partner Entities") to clean up sites where trash, tires, or other materials have been illegally disposed of (the "Project").

The Third-Party Administrator shall ensure that collected debris and waste is properly transported to and disposed of at an authorized disposal facility. If a licensed hauler is needed for tires or other waste collected from sites, the Third-Party Administrator shall ensure that only properly licensed haulers are used for transport and disposal of tires and other waste. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

City of Lubbock
Agreed Order - Attachment A

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP shall rid communities of the dangers and health threats associated with non-regulated dumping and will provide removal of waste that contaminates air, soil, and water, and harbors disease-carrying animals and insects.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D Areas, Inc.
Attn.: Jerry Pearce, Executive Director
P.O. Box 2533
Victoria, Texas 77902

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

City of Lubbock
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount, as described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the Project, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	13-Apr-2015	Screening	16-Apr-2015	EPA Due	5-Sep-2015
	PCW	17-Apr-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Lubbock	
Reg. Ent. Ref. No.	RN101609949	
Facility/Site Region	2-Lubbock	Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No.	50409	No. of Violations	1
Docket No.	2015-0599-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Austin Henck
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$26,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	50.0% Enhancement	Subtotals 2, 3, & 7	\$13,125
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Notes: Enhancement for five months of self-reported effluent violations, one NOV with same or similar violations, and one agreed order with denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$6,389,589
Estimated Cost of Compliance \$46,000,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$39,375
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OTHER FACTORS AS JUSTICE MAY REQUIRE

-2.0%	Adjustment	-\$788
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction to prevent double enhancement for violations that were self-reported.

Final Penalty Amount	\$38,587
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STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty	\$38,587
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DEFERRAL

20.0% Reduction	Adjustment	-\$7,717
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY

\$30,870

Screening Date 16-Apr-2015
Respondent City of Lubbock
Case ID No. 50409
Reg. Ent. Reference No. RN101609949
Media [Statute] Water Quality
Enf. Coordinator Austin Henck

Docket No. 2015-0599-MWD-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 50%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for five months of self-reported effluent violations, one NOV with same or similar violations, and one agreed order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 50%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 50%

Screening Date 16-Apr-2015
Respondent City of Lubbock
Case ID No. 50409
Reg. Ent. Reference No. RN101609949
Media [Statute] Water Quality
Enf. Coordinator Austin Henck

Docket No. 2015-0599-MWD-E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010353002, Effluent Limitations and Monitoring Requirements No. 1 for Outfall Nos. 001, 002, and 003

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on April 1, 2015, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was utilized to evaluate Biochemical Oxygen Demand (5-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total Suspended Solids and *Escherichia coli* were also considered. Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed protective levels as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 7

333 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$26,250

Seven quarterly events are recommended; two for Outfall No. 001, three for Outfall No. 002, and two for Outfall No. 003.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Extraordinary

Ordinary

N/A

Notes

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

X (mark with x)

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$26,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6,389,589

Violation Final Penalty Total \$38,587

This violation Final Assessed Penalty (adjusted for limits) \$38,587

Economic Benefit Worksheet

Respondent City of Lubbock
Case ID No. 50409
Reg. Ent. Reference No. RN101609949
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$46,000,000	28-Feb-2014	8-Dec-2016	2.78	\$6,389,589	n/a	\$6,389,589

Notes for DELAYED costs

Estimated cost to rehabilitate the solids handling building. Date required is the first month of noncompliance and the final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$46,000,000

TOTAL

\$6,389,589

City of Lubbock
Docket No. 2015-0599-MWD-E
TPDES Permit No. WQ0010353002

Effluent Parameter Violation Table

Monitoring Period	Outfall 001				Outfall 002		Outfall 003	
	BOD (5-day)		TSS	<i>E. coli</i>	BOD (5-day)		BOD (5-day)	
	Daily Avg. Conc.	Daily Max. Conc.	Daily Max. Conc.	Daily Max. Conc.	Daily Avg. Conc.	Daily Max. Conc.	Daily Avg. Conc.	Daily Max. Conc.
	Limit = 10 mg/L	Limit = 25 mg/L	Limit = 40 mg/L	Limit = 399 CFU/100 ml	Limit = 60 mg/L	Limit = 70 mg/L	Limit = 60 mg/L	Limit = 70 mg/L
February 2014	11	c	c	c	c	92	c	c
October 2014	c	c	c	c	c	150	c	154
November 2014	c	c	c	411	c	132	c	183
December 2014	c	c	c	c	66	187	65	161
January 2015	c	32	83	c	84	192	80	183

BOD = Biochemical Oxygen Demand
TSS = Total Suspended Solids
E. coli = *Escherichia coli*
Avg. = Average
Max. = Maximum

Conc. = Concentration
mg/L = milligrams per liter
CFU= colony forming units
ml = milliliters
c = compliant

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600130736, RN101609949, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600130736, City of Lubbock

Classification: SATISFACTORY

Rating: 0.63

Regulated Entity: RN101609949, Southeast Water Reclamation Plant

Classification: SATISFACTORY

Rating: 4.56

Complexity Points: 12

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: 3603 GUAVA AVENUE AT THE EASTERN TERMINUS OF EAST 38TH STREET, SOUTH OF THE FORT WORTH AND DENVER RAILROAD BRIDGE CROSSING OF THE NORTH FORK DOUBLE MOUNTAIN FORK BRAZOS RIVER, APPROXIMATELY ONE MILE NORTHWEST OF THE INTERSECTION OF STATE HIGHWAY-LOOP 289 AND FARM-TO-MARKET ROAD 835 (BUFFALO SPRING LAKE ROAD), IN THE SOUTHEASTERN PORTION OF THE CITY OF LUBBOCK IN LUBBOCK COUNTY, TEXAS 79457-0001

TCEQ Region: REGION 02 - LUBBOCK

ID Number(s):

WASTEWATER EPA ID TX0106071

WASTEWATER PERMIT WQ0010353002

WASTEWATER AUTHORIZATION R10353002

PRETREATMENT EPA ID TX0106071000

STORMWATER PERMIT TXRNEP644

STORMWATER PERMIT TXR05CH74

AIR NEW SOURCE PERMITS REGISTRATION 70798

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: June 09, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 09, 2010 to June 09, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Austin Henck **Phone:** (512) 239-6155

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES , when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- | | | |
|---|---|--|
| 1 | Effective Date: 06/26/2010 | ADMINORDER 2009-1973-MLM-E (1660 Order-Agreed Order With Denial) |
| | Classification: Major | |
| | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1) | |
| | 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| | Rqmt Prov: Effluent Limits PERMIT | |
| | Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data. | |

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	June 11, 2010	(847639)
Item 2	August 31, 2010	(868625)
Item 3	June 20, 2011	(946993)
Item 4	September 13, 2011	(966932)
Item 5	October 18, 2011	(972902)
Item 6	August 28, 2012	(1039621)
Item 7	September 13, 2012	(1031036)
Item 8	September 17, 2012	(1048549)
Item 9	October 12, 2012	(1082440)
Item 10	November 16, 2012	(1082441)
Item 11	December 13, 2012	(1082442)
Item 12	January 17, 2013	(1082443)
Item 13	February 15, 2013	(1082439)
Item 14	March 20, 2013	(1090966)
Item 15	August 28, 2013	(1126594)
Item 16	September 12, 2013	(1131142)
Item 17	October 15, 2013	(1136897)
Item 18	November 18, 2013	(1142313)
Item 19	December 18, 2013	(1148750)
Item 20	January 16, 2014	(1154832)
Item 21	April 17, 2014	(1175935)
Item 22	May 15, 2014	(1182157)
Item 23	June 18, 2014	(1189056)
Item 24	July 17, 2014	(1200929)
Item 25	September 18, 2014	(1207385)
Item 26	September 26, 2014	(1200930)
Item 27	October 16, 2014	(1213788)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	08/22/2014	(1185265)	CN600130736
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
		Operational Requirement 1. PERMIT		
	Description:	Failure to maintain the irrigation reservoirs at the Hancock Land Application Site (HLAS) regarding trees along the inside of the pond berms, as required by Operational Requirement 1 of Permit No. WQ0010353002.		
	Self Report?	NO		Classification: Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
		Operational Requirement 1. PERMIT		
	Description:	Failure to maintain the secondary clarifiers on Plant 4 regarding corrosion on the baffles, as required by Operational Requirement 1 of Permit No. WQ0010353002.		
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
		Operational Requirement 1. PERMIT		
	Description:	Failure to maintain the sludge drying beds (waste management units) at the Southeast Water Reclamation Plant (SEWRP), as required by Operational Requirement 1 of Permit No. WQ0010353002.		
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
		Permit Conditions 2.g. PERMIT		
		TWC Chapter 26 26.121		
	Description:	Failure to prevent sanitary sewer overflows of untreated municipal sewage, as prohibited by the Texas Water Code Chapter 26.121 and Provision 2.g. of Permit No. WQ0010353002.		
	Self Report?	NO		Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
Monitoring and Reporting Requirement 7.a PERMIT

Description: Failure to provide "Noncompliance Notifications" of multiple sanitary sewer overflows within 24 hours, as required by Monitoring and Reporting Requirement 7.a. of Permit No. WQ0010353002.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Monitoring Requirement 5. PERMIT
Failure to calibrate/verify the automatic flow measuring devices at least annually, as required by Monitoring Requirement 5 of Permit No. WQ0010353002.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations PERMIT

Description: Failure to meet effluent quality requirements, as required by Effluent Limitations of Permit No. WQ0010353002.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Other Provision 18 PERMIT

Description: Failure to plug a non-producing well, not incorporated within the water level and sampling monitoring programs, in accordance with 16 TAC Section 76.1004, as required by Other Provision 18 of Permit No. WQ0010353002.

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Permit Conditions 2.g. PERMIT

Description: Failure to prevent unauthorized discharges of untreated domestic sewage / sewage sludge waste material, as prohibited by the Texas Water Code Chapter 26.121 and Permit Condition 2.g. of Permit No. WQ0010353002.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Monitoring & Reporting Requirements 7.b. PERMIT
Monitoring and Reporting Requirements 7. PERMIT

Description: Failure to provide the required "Noncompliance Notification" for unreported unauthorized discharges of waste material which may endanger human health or safety or the environment, as required by Monitoring and Reporting Requirement 7 of Permit No. WQ0010353002.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 217, SubChapter M 217.328

Description: Failure to secure the wastewater treatment facility, as required by 30 TAC Chapter 217.328. Access to the Southeast Water Reclamation Plant (SEWRP) was not properly restricted. The SEWRP was not enclosed within an intruder-resistant fence, as required. Portions of the perimeter fence were noted to be removed and portions of the perimeter fence were noted to be missing the top three strands of barbed-wire.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TXR050000, Part II, C.1.(c)(2) PERMIT

Description: Failure to maintain appropriate site conditions required for the Conditional No Exposure Exclusion from stormwater permit requirements at the Southeast Water Reclamation Plant (SEWRP) and land application areas Lubbock Land Application Site (LLAS) and Hancock Land Application Site (HLAS), as required in TXR050000, Part II, Section C. 1. (c)(2).

2 Date: 10/31/2014 (1220038) CN600130736
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

3 Date: 11/30/2014 (1225849) CN600130736
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

4 Date: 12/31/2014 (1232847) CN600130736
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

6	Date:	02/28/2015	(1250214)	CN600130736	
	Self Report?	YES		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet the limit for one or more permit parameter			

N/A

N/A

N/A

N/A

N/A

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF LUBBOCK
RN101609949**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2015-0599-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Lubbock ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Mr. Brad Castleberry of the law firm of Lloyd Gosselink Attorneys at Law, together stipulate that:

1. The Respondent owns and operates a water reclamation plant located at 3603 Guava Avenue at the eastern terminus of East 38th Street, south of the Fort Worth and Denver Railroad bridge crossing of the North Fork Double Mountain Fork Brazos River, approximately one mile northwest of the intersection of State Highway-Loop 289 and Farm-to-Market Road 835 (Buffalo Spring Lake Road), in the southeastern portion of Lubbock in Lubbock County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 15, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Thirty-Eight Thousand Five Hundred Eighty-Seven Dollars (\$38,587) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Seven Thousand Seven Hundred Seventeen Dollars (\$7,717) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Thirty Thousand Eight-Hundred Seventy Dollars (\$30,870) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that in 2007, the Respondent adopted a strategic water supply plan that has four phases, which includes upgrades to the Facility in order to produce stream quality effluent for possible reuse. Phases I, II, and Part 1 of Phase III are complete. Part 2 of Phase III has been initiated and consists of the rehabilitation of the solids handling building. Phase IV involves improvements to the Facility's activated sludge basins and is in the Respondent's future capital project plan.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010353002, Effluent Limitations and Monitoring Requirements No. 1 for Outfall Nos. 001, 002, and 003, as documented during a record review conducted on April 1, 2015, and shown in the violation table below:

Effluent Parameter Violation Table								
Monitoring Period	Outfall 001				Outfall 002		Outfall 003	
	BOD (5-day)		TSS	<i>E. coli</i>	BOD (5-day)		BOD (5-day)	
	Daily Avg. Conc.	Daily Max. Conc.	Daily Max. Conc.	Daily Max. Conc.	Daily Avg. Conc.	Daily Max. Conc.	Daily Avg. Conc.	Daily Max. Conc.
	Limit = 10 mg/L	Limit = 25 mg/L	Limit = 40 mg/L	Limit = 399 CFU/100 ml	Limit = 60 mg/L	Limit = 70 mg/L	Limit = 60 mg/L	Limit = 70 mg/L
February 2014	11	c	c	c	c	92	c	c
October 2014	c	c	c	c	c	150	c	154
November 2014	c	c	c	411	c	132	c	183
December 2014	c	c	c	c	66	187	65	161
January 2015	c	32	83	c	84	192	80	183

BOD = Biochemical Oxygen Demand
TSS = Total Suspended Solids
E. coli = *Escherichia coli*
Avg. = Average
Max. = Maximum

Conc. = Concentration
mg/L = milligrams per liter
CFU= colony forming units
ml = milliliters
c = compliant

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Lubbock, Docket No. 2015-0599-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete an SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Thirty Thousand Eight-Hundred Seventy Dollars (\$30,870) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall, within 365 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limitations of TPDES Permit No. WQ0010353002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 30 Tex. Admin. Code § 70.10(b) and Tex. Gov't Code § 2001.142, the effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

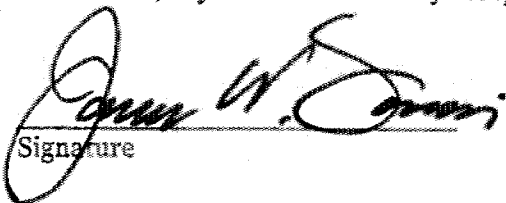
12/18/15
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

09-01-2015
Date

James Loomis
Name (Printed or typed)
Authorized Representative of
City of Lubbock

City Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2015-0599-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Lubbock
Penalty Amount:	Thirty Thousand Eight Hundred Seventy Dollars (\$30,870)
SEP Offset Amount:	Thirty Thousand Eight Hundred Seventy Dollars (\$30,870)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Cleanup of Unauthorized Trash Dumpsites</i>
Location of SEP:	Lubbock County - Brazos River Basin, Ogallala Aquifer

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Cleanup of Unauthorized Trash Dumpsites*. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities ("Partner Entities") to clean up sites where trash, tires, or other materials have been illegally disposed of (the "Project").

The Third-Party Administrator shall ensure that collected debris and waste is properly transported to and disposed of at an authorized disposal facility. If a licensed hauler is needed for tires or other waste collected from sites, the Third-Party Administrator shall ensure that only properly licensed haulers are used for transport and disposal of tires and other waste. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

City of Lubbock
Agreed Order - Attachment A

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP shall rid communities of the dangers and health threats associated with non-regulated dumping and will provide removal of waste that contaminates air, soil, and water, and harbors disease-carrying animals and insects.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D Areas, Inc.
Attn.: Jerry Pearce, Executive Director
P.O. Box 2533
Victoria, Texas 77902

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

City of Lubbock
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount, as described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the Project, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.